

LISA MURKOWSKI
ALASKA

COMMITTEES:
ENERGY AND NATURAL RESOURCES
RANKING MEMBER
APPROPRIATIONS
HEALTH, EDUCATION, LABOR,
AND PENSIONS
INDIAN AFFAIRS

United States Senate

WASHINGTON, DC 20510-0203
(202) 224-6665
(202) 224-5301 FAX

March 13, 2014

510 L STREET, SUITE 600
ANCHORAGE, AK 99501-1956
(907) 271-3735

101 12TH AVENUE, ROOM 329
FAIRBANKS, AK 99701-6278
(907) 456-0233

800 GLACIER AVENUE, SUITE 101
JUNEAU, AK 99801
(907) 586-7277

805 FRONTAGE ROAD, SUITE 105
KENAI, AK 99611-9104
(907) 283-5808

1900 FIRST AVENUE, SUITE 225
KETCHIKAN, AK 99901-6059
(907) 225-6880

851 EAST WESTPOINT DRIVE, SUITE 307
WASILLA, AK 99654-7142
(907) 376-7665

The Honorable Gina McCarthy
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave Nw
Washington, D.C. 20460-0003

Dear Administrator McCarthy:

I recently received a letter from Ms. Michelle Ravenmoon, Chairperson of the Kijik Corporation, expressing "deep concern over the potential effects of the Environmental Protection Agency's (EPA) Bristol Bay Watershed Assessment on Kijik's land."

In her letter, Ms. Ravenmoon asks that I share her concerns with you, and seek clarification on the following questions:

1. "Will the Bristol Bay Watershed Assessment be used as a basis to invoke a 404c determination by the EPA under the Clean Water Act?"
2. "Will 404c be used to effectively revoke the terms of ANCSA for the Alaska Native Corporations whose land holdings are within the assessment boundaries? Has the potential impacts upon ANCSA corporation land been properly evaluated by the EPA in this process?"
3. "Why do EPA memoranda that contemplate the taking of development rights not include discussion of paying for those rights? Have the development rights for ANCSA land owners within these watersheds been appropriately reviewed?"

Like Ms. Ravenmoon, I have significant concerns about the consequences that EPA's actions could have on development in Alaska. I am enclosing here a copy of her correspondence, and request that you personally respond to her questions in a timely and definitive manner.

Sincerely,



Lisa Murkowski
United States Senator

FEB-18-2014 11:03 FROM: KIJIK CORP

19075624945

TO: 18778570322

P.2/7



1577 C. Street, Suite 302
Anchorage, Alaska 99501

phone 907-561-4487
fax 907-562-4945
toll-free 800-478-4487

February 12, 2014

The Honorable Lisa Murkowski
United States Senate
709 Hart Senate Building
Washington, D.C. 20510

Re: Environmental Protection Agency – Bristol Bay Watershed Assessment

Dear Senator Murkowski:

On behalf of Kijik Corporation, the ANCSA village corporation for the community of Nondalton, we wish to share with you our deep concern over the potential effects of the Environmental Protection Agency's (EPA) Bristol Bay Watershed Assessment on Kijik's land. As nearly all of Kijik's ANCSA land is within the assessment boundaries, the importance of this matter to Kijik cannot be understated.

Kijik initially expressed its concerns when public comment was invited following introduction of the preliminary draft of the watershed assessment. Our comments (see attached – Exhibit A) to the EPA stated:

"The intended targets and ultimate impacts of the watershed assessment are unclear. EPA representatives have publicly stated the target activity of the assessment is large scale mining. Moreover, these same representatives have verbally stated the assessment is not intended to affect future development on private land or public infrastructure projects. However, the assessment report does not clearly state private lands will remain unaffected. Kijik respectfully requests that the assessment report be amended to unequivocally state, without condition or qualification and in terms too clear to be misunderstood, that private land holdings will not be affected by the assessment."

Our review of the final assessment report released last month found no attempt by the EPA to clarify this matter. We are left to conclude the full intent of the EPA's watershed assessment is intentionally left vague so the report may serve as the basis for stopping not only Pebble development but potentially all development within the assessment boundaries. Our conclusion is supported by EPA memoranda recently brought to our attention (see attached – Exhibit B) dated September 14, 2010 where EPA staff clearly state:

"A big project like Pebble would be a big blow by itself (not to mention seven more Pebbles), but it is the accumulation of mines, highways, and all associated residential and commercial development enabled

FEB-18-2014 11:03 FROM:KIJK CORP

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by the large scale developments, that will ultimately cause the demise of the resources we are targeting."

The EPA memo, unlike the assessment report, does not equivocate regarding EPA's intent. It is clear they are addressing all forms of development. As such, our concern for our land and our development rights is clearly valid and the threatening posture EPA has assumed towards our ANCSA land cannot be ignored.

We greatly appreciate your earlier effort to seek clarification from the EPA regarding all potential impacts of their watershed assessment. Your letter dated April 18, 2012 to former EPA Administrator Lisa Jackson stated:

"Consistent with my past inquiries, they (your staff) asked Administrator McLerran about the potential impact of a preemptive veto of development in the Bristol Bay watershed for not only mining, but all other development."

While Dennis McLerran asserted the assessment report would be narrowly crafted, preservation of their vagaries was clearly important to his response.

As we have little confidence the EPA would respond directly to our inquiries, we respectfully request that your office share our concerns with the current EPA Administrator, Gina McCarthy, and seek clarification to the following:

1. Will the Bristol Bay Watershed Assessment be used as a basis to invoke a 404c determination by the EPA under the Clean Water Act?
2. Will 404c be used to effectively revoke the terms of ANCSA for the Alaska Native Corporations whose land holdings are within the assessment boundaries? Has the potential impacts upon ANCSA corporation land been properly evaluated by the EPA in this process?
3. Why do EPA memoranda that contemplate the taking of development rights not include discussion of paying for those rights? Have the development rights for ANCSA land owners within these watersheds been appropriately reviewed?

We believe that even if the EPA continues to be unclear in their response, at least our views will have been conveyed directly to the administrator and we can plan accordingly.

Thank you for your time and consideration of our request. Should you or your staff have any questions of Kijik, please don't hesitate to call upon me or our CEO, Ventura Samaniego, at 907-561-4487 or e-mail at ventura@kijikcorp.com.

Yours truly,

Michelle Ravenmoon

Michelle Ravenmoon, Chairperson
Kijik Corporation

FEB-18-2014 11:04 FROM:KIJIK CORP

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Exhibit A



July 20, 2012

Office of Environmental Information (OEI) Docket (Mail Code: 2822T)

Docket# EPA-HQ-ORD-2012-0276

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, DC 20460

Re: An Assessment of Potential Mining Impacts on Salmon Ecosystems of Bristol Bay, Alaska

Dear Sir:

On behalf of Kijik Corporation, we appreciate the opportunity to present some initial comments on the referenced document. Kijik Corporation (Kijik) is the ANCSA village corporation for the village of Nondalton and Kijik's entire 126,000 acre land base is located within the assessment boundaries. The majority of Nondalton's residents are Kijik shareholders or shareholder descendants and Nondalton is the closest village to the proposed Pebble project. As such, we believe we have a significant stake in the outcome of both the assessment and the Pebble project.

We have reviewed EPA's Bristol Bay watershed assessment and Kijik representatives attended the Anchorage and Nondalton public hearings held on June 4th and 7th respectively. Our comments and concerns are as follows:

I. Assessment Impacts

The intended targets and ultimate impacts of the watershed assessment are unclear. EPA representatives have publicly stated the target activity of the assessment is large scale mining. Moreover, these same representatives have verbally stated the assessment is not intended to affect future development on private land or public infrastructure projects. However, the assessment report does not clearly state private lands will be remain unaffected. Kijik respectfully requests that the assessment report be amended to unequivocally state, without condition or qualification and in terms too clear to be misunderstood, that private land holdings will not be affected by the assessment.

II. Assessment Objectives

The EPA watershed assessment does not have a set of clearly stated objectives. At a very fundamental level, we need to ask: *what is the purpose of the assessment and more importantly how does it help?* The assessment report, as published, represents a set of assumptions applied to a mining model that does not exist that is then vetted in a politically

02/18/2014 2:32PM (GMT-05:00)

02/19/2014 12:37PM (GMT-05:00)

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charged arena fraught with controversy, emotion and misunderstanding. Kijik has a genuine need for assistance to better understand a complex Pebble project. To the extent Kijik may not understand, Kijik needs to have confidence the regulatory agencies will objectively review or regulate the complex mining processes that could affect Kijik's interests. The assessment report does not facilitate a better understanding of the Pebble project. Moreover, the assessment appears to represent an ill-advised move by the EPA to "jump into the fray" thereby compromising its regulatory role and diminishing public confidence that the duties of the EPA will be objectively discharged.

III. Assessment Conclusions

The assessment report draws no conclusions. Kijik notes the report outlines the following four (4) key areas of concern; however, no conclusions are drawn.

- A. Tailings dam failure
- B. Pipeline failure
- C. Water collection & treatment failure
- D. Road & culvert failure

The assessment does not establish that the foregoing exposures are inherent to the Pebble project or any other proposed mine being considered for the region.

We respect the request made by EPA representatives, at the public hearings, that public comment focus upon potential improvements to the report and its technical data. However and in Kijik's view, there are far more fundamental concerns regarding what was intended, what did the EPA hope to accomplish and what has the EPA concluded from the assessment exercise.

Lastly, Kijik is compelled to comment upon the alleged origin of the Bristol Bay watershed assessment. EPA representatives have publicly stated, in public hearings and on the EPA website, the assessment was undertaken at the behest of various Alaska Native tribes and tribal groups. Never before, in the history of Native American and federal government relations and to our knowledge, has the federal government responded so expeditiously and aggressively to the beckoning's of the tribal communities. Only recently, in a letter from Alaska's Senator Lisa Murkowski to President Obama, the attention of the administration was drawn to the "significant violations of tribal consultation policies." By conducting a watershed assessment, Kijik does not believe the EPA sought to break the mold that has historically formed federal-tribal relations. It is evident that some other purpose or predisposition is being served by the assessment process. The EPA's decision to not approve the request advanced by various tribes and tribal groups seeking nothing more than an extension of time to review and comment upon the watershed assessment supports our contention.

If you have any questions concerning the above or Kijik Corporation, please don't hesitate to contact our President & CEO, Mr. Ventura Samaniego at: ventura@kijikcorp.com.

Thank you for your consideration.

Yours truly,

Betty Chilcott, Chairperson
Kijik Corporation

FEB-19-2014 11:04 FROM:KIJIK CORP

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TO:18778570322

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Exhibit B



Phil North/R10/USEPA/US
09/14/2010 04:10 PM

To: gpo/kor@alaska.net

cc

bcc

Subject: FW: Thoughts for the Bristol Bay discussion tomorrow

Phillip North
Ecologist
Environmental Protection Agency
Kenai River Center
514 Funny River Road
Soldotna, Alaska 99669
(907) 714-2483
fax 260-5992
north.phil@epa.gov

"To protect your rivers, protect your mountains."

--- Forwarded by Phil North/R10/USEPA/US on 09/14/2010 13:14 PM ---

From: Phil North/R10/USEPA/US
To: Michael Zerlog/R10/USEPA/US@EPA, Richard Parkin/R10/USEPA/US@EPA
Date: 09/14/2010 11:48 AM
Subject: Thoughts for the Bristol Bay discussion tomorrow

Rick and Michael,

I hope that at this point everyone has gotten their minds around the idea that our focus is on the resource and not on any particular project. To that end, here are some thoughts about how I might approach a 404c action. The landscape unit that supports the resource we are discussing is the Bristol Bay watershed. So initially it seems that area should be the target of our 404c action. During the process of developing our proposed determination we would refine our target area based on the need for protection

Not to be predecisional, but looking ahead, of the six Bristol Bay watersheds all but the Nushagak and Kvichak are mostly federal conservation land (wildlife refuge or national park). Nearly all of the Nushagak and much of the Kvichak are state or private land (including tribal), open for development and with little land use planning that targets protection of aquatic resources. And those two watersheds produce half of Bristol Bay's salmon. So far there are two types of development that have been identified in State of Alaska planning documents that could have significant adverse effects on aquatic resources. The first is what drew our attention here, mining. The second is road building. The State of Alaska has outlined an extensive road system that does not currently exist. If it was constructed as proposed it would cause significant adverse effects.

I think it is important to keep in mind that the loss of aquatic resources we have experienced around the country has been incremental. No one project caused the loss of a fish population. Yet, in spite of nearly 40 years of fairly aggressive water protection, we have many populations of endangered salmon and other aquatic organisms. The poor state of our aquatic resources happened cumulatively, one project at a time. Bristol Bay will be no different. While one large highway project or one mine will cause a significant adverse effect, it probably will not kill the resource. A big project like Pebble would be a big blow by itself (not to mention seven more Pebbles), but it is the accumulation of mines and highways, and all the associated residential and commercial development enabled by the larger scale developments, that will ultimately cause the demise of the resources we are targeting.

So a 404c that targets the primary habitat of the resource we are trying to protect, salmon, is a logical approach. First at the specific habitat level by prohibiting discharge in stream channels and the riparian (or adjacent) wetlands that most directly support them. Second by initially addressing Bristol Bay as a whole then narrowing to those watersheds that are at risk.

02/18/2014 2:32PM (GMT-05:00)
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I thought these might be useful ideas if you get into the woods tomorrow.

Phil

PS - Michael, my computer system is still not 100%, my phone is not able to play back phone messages. But I saw that you called.

Phillip North
Ecologist
Environmental Protection Agency
Kenai River Center
514 Funny River Road
Soldotna, Alaska 99688
(907) 714-2483
fax 280-5992
north.phil@epa.gov

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